IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.R. No.903 of 2006

Date of Decision:12.9.2006.

Ram Bilash Aggarwal

....Petitioner.

Versus

Inder Chand

...Respondent.

CORAM : Hon'ble Mr. Justice Ajay Kumar Mittal.

Present:- Mr.J.P.Sharma,Advocate
for the petitioner.

Mr.Ajay Jain,Advocate,
for the respondent.

****

AJAY KUMAR MITTAL, J.(ORAL)

In this revision petition the landlord has impugned the order dated 20.9.2005 whereby the application filed by the petitioner for restoration of eviction petition which was dismissed in default on 12.9.2005 has been rejected.

The petitioner had filed a petition for eviction of the respondent on the ground of arrears of rent. The said petition was dismissed in default on 12.9.2005. Landlord filed an application on 19.9.2005, explaining the reasons for non appearance on 12.9.2005 and prayed that the petition be restored and decided on merits. The said application was dismissed on 20.9.2005. The petitioner filed an appeal before the Appellate Authority which was dismissed on 13.1.2006 as not maintainable and thereafter the petitioner has filed the present revision

petition impugning the order whereby the application for restoration of the eviction petition which was dismissed in default has been rejected.

Learned counsel for the petitioner submitted that non appearance on 12.9.2005 was because the applicant was residing in Faridabad and was not well on that date and being alone was unable to travel. It was because of the reasons beyond his control that he could not appear in the court and the case was dismissed in default. He prayed that since the non-appearance was un-intentional and beyond the control of the petitioner, the Rent Controller should have restored the eviction petition and decided the same on merits.

On the other hand learned counsel for respondent has supported the order passed by the Rent Controller.

I have heard learned counsel for the parties and perused the record.

The explanation given by the petitioner regarding non-appearance on 12.9.2005 is a sufficient cause and in the interest of justice, the eviction petition requires to be adjudicated on merits.

Accordingly, this revision petition is allowed and the impugned order dated 20.9.2005 and 13.1.2006 are set aside and petition for eviction of the respondent from the demised premises which was dismissed in default on 12.9.2005 is restored and the Rent Controller is directed to decide the case on merits in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

Sept 12,2006.
Reema